

UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

ISSAC DURAN,

Plaintiff,

v.

J. BURNS, ET. AL.,

Defendants.

No. 1:21-cv-01290-NONE-HBK

ORDER ADOPTING FINDINGS AND  
RECOMMENDATIONS

(Doc. No. 10)

Plaintiff Issac Duran initiated this action as a prisoner proceeding *pro se* by filing a civil rights complaint under 42 U.S.C. § 1983 on August 24, 2021. (Doc. No. 1.) The matter was referred to the assigned United States Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1)(B) and Eastern District of California Local Rule 302.

On October 26, 2021, the magistrate judge issued findings and recommendations<sup>1</sup> recommending that the court deny plaintiff's motion for leave to proceed *in forma pauperis* and direct plaintiff to pay the full filing fee of \$402.00 due to the funds available in his inmate trust account. (*See generally* Doc. No. 12.) The findings and recommendations served on plaintiff

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<sup>1</sup> The October 26, 2021 findings and recommendations rescinded in part the magistrate judge's October 25 findings and recommendations to the earlier recommendations accounted for funds "on negotiable hold" in plaintiff's inmate trust account. (*See* Doc. No. 9 at 2.) The October 26 findings and recommendations did not account for the funds on hold. Nevertheless, the magistrate judge recommends denial of plaintiff's *in forma pauperis* motion because plaintiff has sufficient funds to pay the full filing fee in this action.

1 contained notice that objections were due within fourteen days. (*Id.* at 1, 5.) Plaintiff filed  
2 objections that were docketed on November 5, 2021, and stated that “he has no problem to pay  
3 filing fee of \$402.00.” (Doc. No. 12 at 1.)<sup>2</sup>

4 In accordance with the provisions of 28 U.S.C. § 636(b)(1)(C), the court has conducted a  
5 *de novo* review of this case. Having carefully reviewed the entire file, the court finds the findings  
6 and recommendations to be supported by the record and by proper analysis.

7 ACCORDINGLY, it is ORDERED:

8 1. The findings and recommendations filed on October 26, 2021 (Doc. No. 10) are  
9 adopted in full;

10 2. Plaintiff shall pay the filing fee of \$402.00 within twenty-one days of receiving service  
11 of process on this order.

12 3. Plaintiff’s failure to timely comply with this order will result in the dismissal of this  
13 case without further notice.

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15 IT IS SO ORDERED.

16 Dated: **November 19, 2021**

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19 UNITED STATES DISTRICT JUDGE  
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28 <sup>2</sup> The objections raise other issues not directly relevant to whether or not plaintiff is willing to pay the filing fee in this case.